



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 07-4893
December 5, 2007

DOMESTIC AUTHORIZATION GRANTED

Application Filed for the Transfer of Control of Yipes Enterprise Services, Inc. from Yipes Holdings, Inc. to FLAG Telecom Group Services Limited

WC Docket No. 07-225

By the Chief, Wireline Competition Bureau:

On October 3, 2007, Yipes Enterprise Services, Inc. (Yipes), Yipes Holdings, Inc. (Yipes Holdings), and FLAG Telecom Group Services Limited (FLAG) (together, Applicants) filed an application, pursuant to sections 63.03 and 63.04 of the Commission's rules,¹ seeking authority to transfer control of Yipes from Yipes Holdings to FLAG.

On October 9, 2007, the Commission released a public notice accepting the application for streamlined processing.² On October 23, 2007, the Department of Homeland Security, with the concurrence of the Department of Justice, including the Federal Bureau of Investigation (collectively, the Executive Branch Agencies), filed a letter requesting that the Commission defer grant of this application while the Executive Branch Agencies address potential national security, law enforcement, and public safety issues.³ In response to the request filed by the Executive Branch Agencies, the Wireline Competition Bureau removed the application from streamlined review.⁴

On November 30, 2007, the Executive Branch Agencies submitted a Petition to Adopt Conditions to Authorizations (Petition).⁵ In the Petition, the Executive Branch Agencies advised the Commission that they have no objection to the Commission granting its consent in this proceeding, provided the

¹ 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

² *Domestic Section 214 Application Filed For the Transfer of Control of Yipes Enterprise Services, Inc. from Yipes Holdings, Inc. to FLAG Telecom Group Services Limited*, WC Docket No. 07-225, Public Notice, DA 07-4187 (rel. Oct. 9, 2007).

³ *See* Letter from Gregory Pinto, Director, Regulatory Policy, United States Department of Homeland Security, to Marlene H. Dortch, FCC, WC Docket No. 07-225 (filed Oct. 23, 2007).

⁴ *See Notice of Removal of Domestic Section 214 Application From Streamlined Treatment*, WC Docket No. 07-225, Public Notice, DA 07-4478 (rel. Oct. 31, 2007).

⁵ *See* Petition to Adopt Conditions to Authorizations, WC Docket No. 07-225 and ITC-T/C-20071002-0040700407 (filed Nov. 30, 2007).

Commission conditions the grant on compliance by Yipes and FLAG with the commitments set forth in the November 20, 2007 Agreement (Agreement) executed by the Applicants and attached to the Petition.⁶

The Wireline Competition Bureau finds, upon consideration of the record, that grant of the application, subject to Applicants' compliance with the Agreement, will serve the public interest, convenience, and necessity. Upon consummation of the transaction, the resulting entity will have a market share in the U.S. interstate interexchange market of less than 10 percent, and will provide competitive telephone exchange services or exchange access services (if at all) exclusively in geographic areas served by a dominant local exchange carrier in the U.S. that is not a party to the transaction. In addition, no party to this transaction is dominant with respect to any domestic service.

Consistent with Commission precedent, the Wireline Competition Bureau accords the appropriate level of deference to the Executive Branch Agencies' expertise on national security and law enforcement issues.⁷ Therefore, pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 0.291 of the Commission's rules,⁸ the Wireline Competition Bureau hereby grants the application discussed in this Public Notice.

Pursuant to section 1.103 of the Commission's rules, the grant is effective upon release of this Public Notice.⁹ Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules may be filed within 30 days of the date of this Public Notice.¹⁰

For further information, please contact Jodie May at 202 / 418-0913, Competition Policy Division, Wireline Competition Bureau.

⁶ See Petition at 1-2.

⁷ The Commission considers national security, law enforcement, foreign policy, and trade policy concerns when analyzing a transfer of control or assignment application in which foreign ownership is an issue. *See Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24170-72, paras. 178-82 (1997); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919-21, paras. 61-66 (1997) ("*Foreign Participation Order*"), Order on Reconsideration, 15 FCC Rcd 18158 (2000). In assessing the public interest, the Commission considers the record and accords the appropriate level of deference to Executive Branch expertise on national security and law enforcement issues. *See Foreign Participation Order*, 12 FCC Rcd at 23919-21, paras. 61-66.

⁸ 47 C.F.R. § 0.291.

⁹ See 47 C.F.R. § 1.103.

¹⁰ See 47 C.F.R. §§ 1.106, 1.115.